

INSTRUCTIONS FOR POST-CONVICTION PROCEEDINGS

In accordance with all rules governing §2254 and §2255 cases the magistrate judge to whom this post-conviction proceeding is referred shall:

- _____ Make a recommendation as to summary dismissal under Rule 4 of the Rules for §2254 and §2255 cases
- _____ Appoint counsel if the interests of justice so require
- _____ Order issuance of appropriate process, if necessary
- _____ Hold a hearing to determine whether or not an evidentiary hearing must be held and make a recommendation to the district judge
- _____ If the magistrate judge expects to recommend that an evidentiary hearing be held, the magistrate judge shall hold a pretrial conference for the purpose of narrowing the issue to be tried and submit a memo to the district judge setting forth:
 - (a) a concise summary of the ultimate facts claimed by
(1) petitioner (2) respondent (3) other parties;
 - (b) the facts established by the pleadings or by stipulations of the parties which may be incorporated by reference;
 - (c) any jurisdictional questions;
 - (d) issues of law, including evidentiary questions;
 - (e) the probable length of the evidentiary hearing.

The magistrate judge may also require the parties to submit the names of witnesses whom they intend to produce, and to exhibit to one another, and submit a schedule of, exhibits which they expect to offer in evidence.

- _____ As to any issue concerning which the magistrate judge does not intend to recommend an evidentiary hearing, the magistrate judge shall submit a memo which shall:
 - (a) identify the relevant portions of the record or transcript of prior proceedings;
 - (b) summarize the relevant facts;
 - (c) summarize the parties' contentions of law with appropriate citations;
 - (d) state the recommendations as to the disposition of such contentions of law, and the grounds therefore.

(Postconv.ins - 09/92)

(Order of Ref to MJ.wpd - 1/20/03)